A Research Proposal on-

Protection of Women Working in Unorganized Sectors as Domestic Workers –An Analytical Study with Human Rights Perspective

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Introduction

A domestic worker is a person who works within the employer's household. They perform a variety of household services for an individual or a family, from providing care for children and elderly dependents to housekeeping, including cleaning and household maintenance. They also perform other responsibilities like washing cloths and pots, cooking, laundry and ironing, shopping for food and undertaking other household errands.

Article 14, 21, 39 of the Indian Constitution provides some rights to workers. Mistreatment of domestic workers is a violation of Article 21 of the Constitution. Domestic workers are included in the unorganized sectors and hence there are practical difficulties to cover them in any legislation. Large numbers of women are occupied as a domestic worker in an urban society. The Unorganized Workers Social Security Act was passed in 2008 to provide for the social security and welfare of unorganized workers. According to this Act the Central Govt. shall formulate suitable welfare schemes for unorganized workers on matter relating to life and disability cover, health and maternity benefits, old age protection and the State Govt. may formulate schemes relating to provident fund., employment injury benefit, housing, educational schemes for children, skill up gradation of workers, funeral assistance and old age homes for unorganized workers. But this act does not specifically mentions about domestic workers.

The Convention on Domestic Workers, formally the 'Convention concerning Decent Work for Domestic Workers' is a convention setting labour standards for domestic workers. It is the 189th International Labour Organization's

convention and was adopted during the 100th session of the International Labour Organization. It entered into force on 5th September 2013. By that Convention, the main rights given to domestic workers as decent work are daily and weekly at least 24 hours rest hours, entitlement to minimum wage and to choose the place where they live and spend their leave. Ratifying states parties should also take protective measures against violence and should enforce a minimum age which is consistent with the minimum age at other types of employment. Workers furthermore have a right to a clear communication of employment conditions which should in case of international recruitment be communicated prior to immigration.

On 26 April 2012, the Uruguayan parliament approved the convention and thereby became the first country to ratify it. As of January 2015, this convention has been ratified by 22 countries such as Argentina, Bolivia, Colombia, Ireland, Italy etc. In India, 500 domestic workers and their allies participated in a public awareness meeting in Jabalpur and presented a communiqué to Prime Minister Manmohan Singh urging ratification of the convention. India supports the convention, but is yet to ratify it. In Delhi, Caritas organized a gathering of 3,000 people, mostly domestic workers, to focus on trafficking and forced labour.[1]

In India, in May 2012, the government extended the Rashtriya Swasthya Bima Yojana (RSBY) Health Insurance Scheme to domestic workers, and it included domestic workers in a new law prohibiting sexual harassment in the workplace. But this Act also proved insufficient in relating to domestic workers.

Researcher is going to study some Constitutional provisions, Government Schemes, Role of NGO's and NCW, some Legislations and International provisions which are related to domestic workers. The scope of this study is limited to domestic working women's because mostly domestic workers are women in majority houses.

[1] https://www.hrw.org/sites/default/files/related_material/2013ilo_dw_convention_brochure.pdf

Statement of Research Problem

1. Women working in domestic work facing violation of human rights of the highest degree.
2. In India, still there is no serious attempt to protect the human rights of domestic workers.
3. There is no Central Legislation that provides for a decent wage and work conditions for domestic workers in India. Because 'The Unorganised Workers Social Security Act, 2008(Act 33 of 2008)' does not specifically mention about domestic workers.
4. Article 39 of the Indian Constitution (Directive Principles of State Policy) & Article 14 of the Indian Constitution impliedly provides equal pay for equal work, but domestic workers got unreasonable, unequal and unjust payment which is a negation of the fundamental right and human right.
5. At the 100th session of the International Labour Conference, in 2011 the ILO has adopted the Convention Concerning Decent Work for Domestic Workers (Domestic Workers Convention, No. 189). This treaty establishes the first global standards for domestic workers. India supports the convention, but is yet to ratify it.
6. The Government of India have added the category of domestic workers to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013. However the Act is silent as to who should be made accountable if the committee is not constituted within an organisation. So they face violence, abuse and sexual harassment at workplace.
7. The National Commission for Women (NCW) proposed another Bill for Domestic Workers in 2010 i.e. Domestic Workers Welfare and Social Security Bill, 2010 which is an improved version of the earlier. However the Bill does not provide for national holidays.
8. Since they are not recognised as 'workers' they do not enjoy access to social security benefits that other workers do, like health insurance, maternity protection and old -age security.

Hypothesis

1. The Human Rights of Indian Domestic working women are not legally protected.
2. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 not provides actual protection to Domestic Working Women.
3. The Unorganised Workers Social Security Act, 2008 did not meet the requirement of domestic workers in strict sense. There is a need to pass a special Act for Domestic Workers in India.
4. Constitutional provisions, provisions of Labour Laws, National and International frameworks, judicial pronouncements relating to domestic working women are not sufficient.
5. Judiciary has to play creative role for the protection of Human Rights of domestic working women.

Methodology

The researcher is going to use doctrinal method of research to analyze the legal propositions and to verify the hypothesis by referring the different sources.

The present study is analytical, diagnostic and applied in nature. The data in the present study will be collected through both the sources of data collection i.e. primary sources and secondary sources. The researcher will specially use the committee reports and various resolutions at International and National level. The researcher would like to focus on issues and challenges in implementing the right and the solutions for the same through analysing different International and National frameworks, policies, rules, constitutions, various books, Articles, Law Journals, Manuals, reports, Case laws, different Acts relating to domestic working women etc.

Researcher will also collect data through Newspapers, National Surveys, Proceedings of Conferences, Magazines, recommendations of NGO's as well as drafting of NCW'S and websites by using the internet. The scope of this study is limited to Pune city. Present studies mainly focus on the status of Maharashtra's domestic working women.

Need and Significance of the Study

If we see past Indian culture, women are mostly housewives. Day by day educational awareness has been increased. In urban society, majority women are now well educated. They started to work outside of their houses. The percentage of women workers in all fields is now highly increased. Day by day they need someone, who helps in their housework. So, the need of domestic workers in today's modern era has been increased. Now they are become inevitable parts of day to day life in the urban society.

The subject made emphasis on issues and challenges before domestic women workers. They are highly exploited by their employers .So there is a need to give legal protection to them. Sexual harassment is also one of the major issue before the domestic women workers. If we see, domestic workers are neglected part of the society. To increase the Social status of domestic working women this study is important.

Because of the rates of Foreign countries are much higher than India; many of Indian women go with their employer for doing their household work in abroad. Sometimes this women may exploit to that domestic workers as to give more work in less costs than actually contracts and used to force to work extra number of hours[2] .Therefore researcher is going to undertake this study.

[2] Diplomat Devyani Khobragade's Case

Objectives of the Study

1. To highlight the Domestic sector in the context of Women.
2. To understand the women problems in the Domestic sector such as mistreatment. To determine Socio-economic problems and factors contributing to vulnerability of domestic working women. And to study the nature of violations faced by domestic working women.
3. To study the recommendations of various recommendations, reports and Bills relating to Domestic Women Workers.
4. To study various Labour Laws and its application to domestic women workers.
5. To study judicial pronouncement relating to domestic workers.
6. To study the role of Government, National Commission for Women and NGO's for protection of Human Rights of Domestic Working Women.
7. To highlight the existing problems of domestic working women and to create awareness among them about their rights.
8. To examine the obstacles in the implementation of various provisions of law such as Constitutional Law, Statutes etc.

CHAPTERISATION:

The research is proposed to be studied in **seven** chapters as mentioned below.

Chapter I - Introduction:-

In this chapter researcher will discuss the Introductory part of the research, statement of research problem, objectives of the study, significance of the study, scope of the study, hypothesis of the research and research methodology .

Chapter II- Meaning, Scope, Social Status, Background of Domestic Workers

In this chapter researcher will state the meaning of domestic workers and also discuss about which kind of work included in domestic work. Researcher will further discuss the existing social status of domestic workers.

Chapter III- Human Rights Violation of Domestic Working Women

In this chapter Researcher will discuss the various kinds of violations facing by Domestic Women Workers i.e. Low wages, absence of legal protection, work load, inadequate living conditions, inadequate provision of benefit, occupational health and safety issue etc.

Chapter IV- Protection of Domestic Working Women: National and International perspective

In this chapter Researcher will study the National provisions, Legislations and International Provisions relating to domestic workers. This will be studied in two parts.

In **Part-A** Researcher will study the Indian Provisions. Research will study the provisions of Indian Constitution. The provisions of some Legislations such as 'The Unorganised Workers Social Security Act, 2008(Act 33 of 2008)' and 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013' in relating to Domestic Women Workers

In Part –B Provisions of Convention concerning Decent Work for Domestic Workers (Domestic Workers Convention, No. 189) are proposed to be studied by the researcher.

Chapter V -Role of Indian Judiciary in Protecting Human Rights of Domestic Working Women:-

The researcher in this Chapter will analyze the High Court and the Supreme Court cases and will ascertain how far the Indian Judiciary is able to protect Domestic Women Workers from violation of Human Rights and exploitation from employer. And to check whether Judiciary provide any guidelines to frame a separate legislation for the protection of Domestic Workers or not.

Chapter VI- The Role of Government and NGO's in Protection of Human Rights of Domestic Workers:-

In this chapter researcher will study various recommendations of NGO's as well as the role of Government and NCW in protecting the Human Rights of Domestic Working Women.

Chapter VII- Analysis of Data and Criticisms

Chapter VIII- Conclusion and Suggestion